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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 603 (VEC)

5 AAMIR WAHAB, WILLIAM
6 WASHINGTON, KEYON DOOLING,

7 Defendants.

Arraignment

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8 New York, N.Y.

9 May 16, 2022

2:02 p.m.

10 Before:

11 HON. VALERIE E. CAPRONI,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: KRISTY J. GREENBERG, ESQ.
Assistant United States Attorney

18 LAW OFFICE OF ALEX R. KESSEL

Attorneys for Defendant Aamir Wahab

19 BY: ALEX R. KESSEL, ESQ.

20 ZALTZBERG LAW

Attorneys for Defendant William Washington

21 BY: RAOUL ZALTZBERG, ESQ.

22 DONALD YANNELLA P.C.

Attorneys for Defendant Keyon Dooling

23 BY: DONALD J. YANNELLA, III, ESQ.

M5G1WAHA

(Case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the record.

MS. GREENBERG: Kristy Greenberg for the government. Good afternoon, your Honor.

THE COURT: Good afternoon, Ms. Greenberg.

MR. YANNELLA: And Donald Yannella for Keyon Dooling. Good afternoon, your Honor.

THE COURT: Good afternoon, Mr. Yannella. Good afternoon, Mr. Dooling.

MR. ZALTZBERG: For William Washington, Raoul Zaltzberg. Good afternoon, your Honor.

THE COURT: Good afternoon, Mr. Zaltzberg. Good afternoon, Mr. Washington.

You can sit down, everybody.

And in Los Angeles?

MR. KESSEL: Your Honor, thank you for this appearance. It was very convenient. Alex Kessel, attorney for Dr. Aamir Wahab, and we're both appearing on videoconference, your Honor.

THE COURT: All right. Good afternoon, Mr. Kessel. Good afternoon, Mr. Wahab.

DEFENDANT WAHAB: Good afternoon.

THE COURT: Okay. All right. Let's start with: For the defendants, Congress, in its infinite wisdom, passed a law

M5G1WAHA

1 not too long ago that tells me that the first time I see a
2 criminal defendant, I need to remind the government of its
3 obligations under the Constitution. Since this is the first
4 time I've seen the three of you, let me remind the government
5 of its obligations under the Constitution and then we'll turn
6 to the arraignment, okay?

7 All right. Ms. Greenberg, I direct the prosecution to
8 comply with its obligation under *Brady v. Maryland* and its
9 progeny to disclose to the defense all information, whether
10 admissible or not, that is favorable to the defendant, material
11 either to guilt or to punishment, and known to the prosecution.
12 Possible consequences for noncompliance may include dismissal
13 of individual charges or the entire case, exclusion of
14 evidence, and professional discipline or court sanctions on the
15 attorneys responsible. I've already entered a written order
16 more fully describing this obligation and the possible
17 consequences of failing to meet it, and I've directed the
18 prosecution to review and comply with that order.

19 Ms. Greenberg, do you confirm that you understand your
20 obligations and have and will fulfill them?

21 MS. GREENBERG: Yes, your Honor.

22 THE COURT: Okay. Before I turn to the arraignment,
23 Mr. Zaltzberg, and Mr. Yannella, are you both here as CJA
24 counsel?

25 MR. ZALTZBERG: Yes, your Honor.

M5G1WAHA

MR. YANNELLA: That's correct, your Honor.

THE COURT: And have your defendants filed financial affidavits?

MR. ZALTZBERG: Yes, your Honor.

MR. YANNELLA: Yes, your Honor.

THE COURT: Okay. All right. So we're here for the arraignment on the S3 indictment. So to the defendants, you are all charged in an indictment with a single count of conspiracy to commit health care fraud and wire fraud. I'm going to ask you each whether you've seen the indictment, read it, and discussed it with your lawyer.

Let me start with you, Mr. Wahab. Have you seen the indictment?

DEFENDANT WAHAB: Yes.

THE COURT: Have you read it?

DEFENDANT WAHAB: Yes.

THE COURT: Have you discussed it with your attorney?

DEFENDANT WAHAB: Yes, your Honor.

THE COURT: How do you plead, guilty or not guilty?

DEFENDANT WAHAB: Not guilty.

THE COURT: All right. Mr. Washington, have you seen the indictment?

DEFENDANT WASHINGTON: Yes, your Honor.

THE COURT: Have you read it?

DEFENDANT WASHINGTON: I have, your Honor.

M5G1WAHA

1 THE COURT: Have you discussed it with your attorney?

2 DEFENDANT WASHINGTON: Yes, I have, your Honor.

3 THE COURT: How do you plead, guilty or not guilty?

4 DEFENDANT WASHINGTON: Not guilty.

5 THE COURT: And Mr. Dooling, have you seen the
6 indictment?

7 DEFENDANT DOOLING: Yes, your Honor.

8 THE COURT: Have you read it?

9 DEFENDANT DOOLING: Yes, your Honor.

10 THE COURT: Have you discussed it with your lawyer?

11 DEFENDANT DOOLING: Yes.

12 THE COURT: And how do you plead, guilty or not
13 guilty?

14 DEFENDANT DOOLING: Not guilty.

15 THE COURT: Okay. Ms. Greenberg, could you kind of
16 lay out for these defendants what this case looks like and what
17 the discovery is.

18 MS. GREENBERG: Yes, your Honor.

19 THE COURT: And you can take your mask off when you're
20 speaking.

21 MS. GREENBERG: Yes, your Honor.

22 This is a case where, at the heart of it is the NBA
23 players health and benefit plan, which is a health care plan
24 providing benefits to eligible active and retired players of
25 the NBA. And as alleged in the superseding indictment, from in

M5G1WAHA

1 or about 2017 through in or about 2021, the charged defendants
2 engaged in a widespread scheme to defraud the plan by
3 submitting fraudulent invoices and claims for reimbursement of
4 medical and dental services that they did not receive. Over
5 the course of the scheme, we allege that the defendants
6 submitted or caused to be submitted to the plan false claims of
7 at least approximately \$5 million from which the defendants
8 received at least approximately \$2.5 million in fraudulent
9 claims.

10 As to the particular defendants that are here at this
11 proceeding, Mr. Dooling, along with Terrence Williams and Alan
12 Anderson, were involved in recruiting other plan participants
13 to participate in the scheme. Mr. Wahab, who is a licensed
14 dentist, provided Terrence Williams and Keyon Dooling with fake
15 invoices for dental services that were not actually rendered in
16 exchange for proceeds from the plan. Mr. Washington, who is a
17 licensed physician, provided Mr. Williams with fake invoices
18 for wellness services that were not actually provided in
19 exchange for proceeds from the plan.

20 Those are the general allegations. There is more
21 detail, obviously, in the superseding indictment as to those.

22 With respect to discovery, I would note at the outset
23 that there was a protective order in this case and that all
24 discovery that has been produced and will be produced to the
25 newly added defendants are being produced pursuant to the terms

M5G1WAHA

1 of that protective order.

2 THE COURT: I'm sorry to interrupt. Have these
3 defendants seen the protective order and signed on yet?

4 MS. GREENBERG: They have not signed on, but I
5 believe -- I don't believe so, but I know it is publicly filed
6 on ECF. We can confer with each of the defense attorneys as
7 well as to whether or not they will sign on.

8 THE COURT: Okay.

9 MS. GREENBERG: We have been in touch with the
10 discovery coordinator, who is preparing to produce all
11 materials in this case that's been produced to all other
12 defendants, and that generally consists largely of subpoena
13 returns relating to these defendants and the providers. That
14 can range from travel records, bank records, credit card
15 financial records, certain witness statements. There were also
16 various disclosure letters that were made relating to certain
17 witness statements. Those have been produced to the defendants
18 in the original indictment. Those will also be produced to the
19 newly added defendants. Legal process--search warrants, 2703(d)
20 orders, 2703(d) terms. That's largely what the discovery looks
21 like that has already been produced to the original defendants.
22 We anticipate this week or next week making some additional
23 individual productions in this case, and certainly we are
24 making all reasonable efforts to complete our productions in
25 advance of June 7th, when we originally had the conference

M5G1WAHA

1 scheduled.

2 Some outstanding items that we are working to produce
3 with respect to these defendants are search warrant returns
4 containing prospective cellphone location information, subpoena
5 returns that relate specifically to these three defendants,
6 subpoena returns from both the plan and the third-party
7 administrators. Much of that has already been produced. We
8 are reviewing that information again just to make sure, with
9 respect to these defendants, that we are capturing everything
10 and producing that material. Search warrant returns relating
11 to these newly added defendants' email accounts, again, that's
12 an ongoing review that we do anticipate being able to make in
13 advance of June 7th. Each defendant will get in its entirety
14 their own email accounts, but the responsiveness for each of
15 those accounts we do anticipate being done in advance of
16 June 7th. Search warrant returns for particular physical
17 devices. And here, I will be a little more specific. With
18 respect to Dr. Wahab, the government obtained a search warrant
19 on seven electronic devices that were used or controlled by
20 Mr. Wahab or his businesses. The review of those seven devices
21 is in progress, and we anticipate, again, being able to produce
22 those in advance of June 7th. Also, a cellphone was obtained
23 via search warrant from Mr. Dooling, and that is a little more
24 difficult. That cellphone has not been extracted. It has been
25 difficult to assess whether or not it will be able to be

M5G1WAHA

1 extracted and whether any responsiveness materials from that
2 cellphone will be able to be produced. Again, we're making all
3 reasonable efforts here, but it's just a matter of whether or
4 not the cellphone is going to be able to be opened as to that.

5 The only additional information that is new from the
6 government's May 2nd letter to the Court is that the FBI was
7 recently able to get into one of Mr. Williams's phones so that
8 that review is now just beginning, so that may take some time.
9 Again, we are working very hard to make all efforts to get
10 productions in advance of June 7th. I just note that is brand
11 new, so we're doing our best, and we'll be able to update the
12 Court -- I believe our next update is June 3rd.

13 THE COURT: Thank you. Okay.

14 MS. GREENBERG: Thank you.

15 THE COURT: So all of that is to say, gentlemen,
16 there's a lot of discovery in this case. Ms. Greenberg said
17 this, but let me repeat: Emma Greenwood has been appointed as
18 the coordinating discovery attorney. For the CJA attorneys,
19 you obviously will have access to that. Mr. Kessel, for
20 Dr. Wahab, if you want access to it, Ms. Greenwood will make
21 arrangements. You just have to pay for your portion of the
22 cost of her work. For what it's worth, she's a wonderful
23 discovery coordinator and I think she is worth every penny that
24 she costs.

25 MR. KESSEL: Thank you.

M5G1WAHA

1 THE COURT: And so y'all are just coming in, and I
2 realize that there's a lot of information, but my plan is to
3 get at least preliminary trial groupings. There are obviously
4 way too many defendants in this case to try everybody together.
5 But my plan is, whoever ends up going to trial, to try people
6 in groups of three to five. Sort of about that is about the
7 most defendants we can effectively manage in a single trial.
8 So I've directed all of the defendants and the government to
9 meet and confer to see if everybody can reach an agreement on
10 what are logical trial groupings, given the facts of the case.
11 If you can agree, then I'd like a joint letter on June the 3rd
12 laying out what the trial groupings are. If the parties cannot
13 reach an agreement on what the groupings are, the government
14 will submit their proposal on June the 3rd, and then I'm
15 requesting a joint defense counterproposal on June the 10th.

16 Our next conference will be on July the 7th at 11:00.
17 To the defendants who are here personally, normally I require
18 defendants in a criminal case to appear in person. The Los
19 Angeles defendant got an excuse because his lawyer could not
20 come, so it just seemed crazy to make him fly all the way for a
21 10-minute arraignment. Normally, though, I'd like all
22 defendants here. For the conference on the 7th, it is not
23 necessary. You do not need to come. I'm going to do it by
24 phone. You're welcome to call in to the conference if you want
25 to. It is purely a scheduling conference. What I need to do

M5G1WAHA

1 at that point is set a schedule for any pretrial motions as
2 well as to set trial schedules. So if you'd like to call in
3 and listen in, you're welcome to. If you don't want to, you
4 don't have to. If you're not going to call in and if you're
5 not going to show up in person, I need a waiver of your
6 in-person appearance, with consent to your attorney appearing
7 on your behalf, by July the 1st.

8 But my goal is to have the first trial in this case in
9 December. The government has previously, in connection with
10 the other defendants, estimated that trials, if they're limited
11 to three to five defendants, should be about a week and a half
12 to two weeks. Is that correct, Ms. Greenberg? Am I
13 remembering that right?

14 MS. GREENBERG: Yes, your Honor.

15 THE COURT: So that's my plan is to start in December
16 and then try to do one a month until we get everybody tried who
17 wants to proceed to trial.

18 So I've already excluded time until July the 7th, so
19 that exclusion stays in place.

20 Anything further from the government, Ms. Greenberg?

21 MS. GREENBERG: No, your Honor.

22 THE COURT: Anything further on behalf of Mr. Wahab,
23 Mr. Kessel?

24 MR. KESSEL: Your Honor, no. Understood everything
25 you've said. Thank you.

M5G1WAHA

1 THE COURT: Terrific.

2 Anything further on behalf of Mr. Washington,

3 Mr. Zaltzberg?

4 MR. ZALTZBERG: No. Thank you very much, your Honor.

5 THE COURT: How about you, Mr. Yannella, on behalf of

6 Mr. Dooling?

7 MR. YANNELLA: No, your Honor.

8 THE COURT: Thanks, everybody. And just to be clear,

9 I do not have COVID. I sound terrible, but I don't have COVID.

10 I've been tested numerous, numerous times, so I've got a bad
11 throat, but it's not COVID.

12 ALL COUNSEL: Thank you, your Honor. Feel better.

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